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formed a valuable service for the medical profession. The statutes regulating the right to practice medicine in the various states are given and explained. The contract relations between the physician and patient and the liability of third parties are carefully pointed out and illustrated by cases.

The chapter dealing with the Civil and Criminal liability of physicians for malpractice is particularly useful. The style and arrangement are excellent, and the author's comments are so clear that the intelligent layman should have no difficulty in understanding what the law is, and the reasons upon which it is based. The author's plan of illustrating the legal principles by quoting freely from the well-considered opinions of Judges in leading and typical cases, instead of from text books, is particularly to be commended. The author's object as set forth in the preface has been admirably carried out, and medical men will find the work an exceedingly valuable addition to their libraries.

AMERICAN LAW. A Treatise on the Jurisprudence, Constitution and Laws of the United States. By James De Witt Andrews. Chicago: Callaghan & Company. 1900. pp. cxii, 1245.

"America's Greatest Institutional Law Book."—PUBLISHER.

"The achievement of a great design."—CHIEF JUSTICE, U. S. C. A.

"A great work and undoubtedly placed upon a true philosophical basis."—JUSTICE COURT OF APPEALS AND PROFESSOR OF LAW.

"It will take the place Blackstone has too long occupied in the study of law in America for want of such a work."—JUDGE COURT OF COMMON PLEAS, FIRST PRESIDENT STATE BAR ASSOCIATION.

"Neither Blackstone, nor Kent, nor Story, nor Greenleaf, surpasses it."—LAW REVIEW.

"In respect of its style the work will stand among the first legal classics of England and America."—LAW REVIEW.

"Every elementary topic in the legal field is adequately expounded. The whole work is an analytical outline of the law, so well arranged, so thoroughly done, so excellently proportioned, that it is but just to speak of it as a splendid specimen of what may be called legal literary architecture."—PROFESSOR OF LAW, IN LEGAL NEWS.

It is an ungrateful task which devolves upon the belated reviewer of this much-lauded work, and the publisher, who has had his head turned by the indiscriminate praise with which it has been received, may well doubt whether any capacity for judgment really exists in the profession to which it is addressed. It would be impertinent to inquire too closely into the mental operations of the jurists and statesmen who have committed themselves thus unreservedly to an indorsement of this book. For, of a score or more of reviews which have come under the observation of the writer of this notice, only one indicates that that confusion of judgment was invited which, according to Sidney Smith, results from the mischievous practice of reading a book before reviewing it. It is a charitable as well as the only reasonable explanation of the treatment which this work has

received at the hands of "indolent reviewers" and a too indulgent bench and bar, that it was "passed" on its size and appraised on its pretensions.

Not that this impressive volume of 1,200 odd pages is without certain conspicuous merits. It shows varied and extensive reading, a serious and comprehensive purpose and an appalling industry. Indeed, the work makes a formidable impression of learning, which is not entirely dissipated by a closer acquaintance with its contents. It is a veritable storehouse of legal maxims and of sage observations on the law and its principles and tendencies. Furthermore, it is the first serious attempt which has been made on this side of the Atlantic at a complete classification of our legal system; and this attempt, notwithstanding grave defects in plan and execution, must be conceded to rank as a real achievement. It is an extraordinary example of analysis and criticism, reminding one of Austin in the refinement of its reasoning and the minuteness of its observation, as, alas! in its prolixity and too frequent obscurity. Indeed, if one were at liberty to deal with the book at first hand, to ignore its avowed purposes and the extravagant claims asserted for it by its publisher and friends, we might render it the tribute of sincere, though qualified, praise. Regarded as a discourse on *method*, as a treatise on legal analysis, it is likely to take a permanent place in the small list of works of that character which the busy Genius of Anglo-American law has found time to produce.

But we are not at liberty to ignore the pretensions of the book. It is the first of the canons of criticism that a work shall in some sort serve the purposes of its creation, or stand condemned of sterility and failure. It is this, the major excommunication, which we pronounce on "The Blackstone of America." If we spare it the bitter *anathema*, it is only for the saving grace of the swollen discourse on legal method, to which reference has been made. But, for the remaining thousand pages, there is no grace to save them. They are condemned from the beginning.

*"Monstrum horrendum informe ingens,
Cui lumen ademptum."*

Conceive of an "institutional" work for students, a commentary on American law, which devotes 150 pages to a minute examination of principles of legal classification, consumes 450 more in an exposition of the governmental machinery under which we live, and then undertakes to deal with the whole body of our private law, substantive and adjective, in 600 pages more! in which only 68 pages can be spared for Real Property, 50 pages for the whole length and breadth of Equity Jurisdiction and 15 pages for Evidence! in which the law of Mortgages is expounded in two pages, the subject of Easements treated in one, and Torts (*stat nominis umbra*) appears only as a title in the index! The shrinking of this *magnum opus* from the extraordinary amplitude and fullness of its beginning to its concluding grand division, Part IV., devoted to The Law of Crimes—in 2½ pages!—irresistibly invites the phrase

“petered out” as the only fit term by which to describe the process. The exigencies of the publishing trade, appealed to on page 1149 as the author’s excuse for this lamentable lack of proportion, affords no excuse, nor even mitigation of an offense which defeats the avowed purpose of the book, but is a confession of failure. That the “desirability” of compressing the work into a single volume should “outweigh” the “necessity” of providing at least “an elementary exposition” of the principal topics of our law in “America’s greatest institutional law book,” may be an obvious proposition to a publisher (though the writer is happy to say that he knows some law book publishers whose surprise at the suggestion would be equal to his own), but that the responsible author should deliberately sacrifice his work on that high commercial altar, would not be believed if we had not his word for the fact. It is not recorded of Blackstone and Kent and Story and Greenleaf (whose writings this newest institutional work is destined to supersede) that they wrote their great treatises with the fear of the law publisher or of the one-volume law student before their eyes. The plain fact is, the author has been swamped by his materials. Lacking a due sense of proportion, and not having his law well in hand, he laid out his work on a ten-volume scale and then mutilated it to suit the exigencies of a one-volume demand.

Frankly, we do not believe that there is any demand for an “institutional” work of the kind attempted by our author. The American Blackstone is as much of an anachronism as would be a 20th century Lord Bacon, who should make all modern science his province. That there is room for a systematic outline of American law, a draft code rather than a *corpus juris*, may be conceded, without admitting that it would be of any considerable value either to the law student or to the general practitioner, for whom Professor Andrews’ work is intended. But we have preferred to rest our criticism on the quality of the book before us, judging it by its own promise and not by any ideal standard, and we have condemned it not because it undertakes a work which we do not deem worth doing, but because the work which it has undertaken is badly done.

We have left ourselves no room to speak at length of the author’s literary style, which, apart from a certain felicity of definition and condensed statement, displays little animation, is usually ponderous and sometimes obscure. At its best it is not easy reading—a particular in which it differs conspicuously from its great counterpart. This is due mainly, perhaps, to the discursive and confused manner in which the argument is presented. It is probably not necessary that a writer on method should himself be methodical, but his treatise would be vastly more convincing if it exemplified his principles. The law of the book is for the most part accurate enough, but errors due to partial and imperfect knowledge—as the curious statement that “estates tail are not allowed in the United States” (p. 974), and the unqualified assertion (p. 1003) that the mortgagor is a mere tenant at will after condition broken—are common enough to give one pause. The author has made

superabundant use of his extensive acquaintance with the late Judge Wilson's works, lately edited by him. Indeed, regarded as a commentary on Wilson, the treatise on American law leaves little to be desired. That it will serve any other useful purpose we cannot believe. That any considerable number of people, law students or lawyers, should actually read it, is inconceivable. One cannot but regret the enormous labor that has gone to make this enormous book. The writer of this notice confesses to a strong temptation to paraphrase Byron's eulogy of Southey's "Thalaba," and to say, in the vein of the indulgent critics quoted at the head of this article, that Andrews' American Law will be read when Blackstone and Kent are forgotten—and not till then. But he sternly refuses to yield to the temptation. He doesn't believe that it will.

Acknowledged :

CHIEF JUSTICE MARSHALL. An oration. By the Hon. Joseph Story. Reprinted by the Lawyers' Co-operative Publishing Association out of compliment to the American Bar Association and in honor of "John Marshall Day," February 4, 1901.

THE DIFFICULTIES OF OBTAINING JUSTICE. By Oscar Reuter, J. U. D., of the Denver, Colorado, Bar.

Reviews to follow :

THE POLICE POWER OF THE STATE AND DECISIONS THEREON AS ILLUSTRATING THE DEVELOPMENT AND VALUE OF CASE LAW. By Alfred Russell, of the Detroit Bar. Chicago: Callaghan & Co. 1900. pp. xvii, 204.

ELEMENTS OF JURISPRUDENCE. By Thomas Erskine Holland, D. C. L. Ninth Edition. New York: Oxford University Press, American Branch. 1900. pp. xvi, 430.

CLERK'S ASSISTANT. By Austin Abbott, LL. D. Revised Edition. By Clarence F. Birdseye. New York: Baker Voorhis & Co. 1900. pp. x, 1091.

PROBATE REPORTS ANNOTATED. Vol. IV. New York: Baker, Voorhis & Co. 1900. pp. xxxiii, 767.

THE LAW OF BILLS, NOTES AND CHEQUES. By Melville M. Bigelow, Esq. Second Edition. Boston: Little, Brown & Co. 1900. pp. xxix, 349.

ELEMENTS OF AMERICAN JURISPRUDENCE. William C. Robinson, LL. D. Boston: Little, Brown & Co. 1900. pp. lviii, 401.

AN EXPOSITION OF THE PRINCIPLES OF ESTOPPEL BY MISREPRESENTATION. By John S. Ewart, Esq. Chicago: Callaghan & Co. 1900. pp. xlvii, 548.